

## Message

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**Sent:** 9/20/2017 10:07:29 PM  
**To:** Johnston, Tom [TLJ@adem.alabama.gov]  
**CC:** Sibley, Shawn S [SSibley@adem.alabama.gov]; Martinez, Brittany [Martinez.Brittany@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Biffi, Betsy [Biffi.Betsy@epa.gov]; Lapierre, Kenneth [lapierre.kenneth@epa.gov]  
**Subject:** Additional Information Regarding Arrowhead Retaliation Claims

Good afternoon Tom,

I hope this note finds you well. As you most likely are aware, this past Friday, Kevin and Lance had a conversation about the status of the pending Arrowhead and Dothan cases. Kevin shared with Lance that, as a result of the response we received from complainants related to their retaliation claims, (you may recall that the last time we spoke we were waiting for that response) we need some additional information from ADEM in order to move forward with the analysis of the retaliation claims that are part of the Arrowhead complaint.

During that conversation Kevin asked Lance to give you a head's up that I would be contacting you soon to schedule a conference call to discuss the additional information that we need. In preparation for that call I want to provide you with the list of questions we would like to discuss (we have also provided some preceding information in order to give you more context about the nature of the questions.) We hope that by sending you the questions in advance it will help facilitate our conversation.

Please let me know if you would be available this Friday to begin our discussions. I do I understand if you need additional time to review the questions, however, and we do have availability during the week of the 25<sup>th</sup> as well.

Thank you for your continued assistance with this matter and I look forward to hearing from you.

Lilian

**The first set of questions** is related to Complainants' concern that ADEM failed to investigate allegations of intimidation by Green Group Holdings (facility owners) brought to ADEM's attention by the Complainants through correspondence dated March 25, 2016 and through public comments regarding opposition to the permit to operate at Arrowhead Landfill submitted to your office in a letter dated October 13, 2016. Complainants claim that ADEM ignored their Title VI claim of retaliation.

1. How does ADEM protects citizens from potential intimidation, retaliation, and/or harassment in compliance with 40 CFR § 7.100?
2. Has ADEM ever received any other complaints regarding intimidation, retaliation, and/or harassment by a permitted facility? If so, did ADEM investigate and respond to those complaints?
3. Does ADEM have a process/procedures for addressing and responding to claims of retaliation, intimidation, harassment or other misconduct by permitted facilities against community members?
4. If yes, please provide/describe the process and procedures for addressing these types of situations. Was this process/procedure used in response to Earthjustice's March 25, 2016 letter?

5. If no, what steps does ADEM take to respond to these types of complaints?

**The second set of questions** relates to claims raised by complainants in support of an alleged pattern of retaliation in the processing of environmental complaints received by ADEM from community members and complainants. These involve two specific areas of concern.

*Concern raised related to in-person environmental complaints not being properly logged or responded to by ADEM.* Complainants claim that a citizen visited ADEM offices on August 19, 2016, discussed his observation with Ms. Glenda Dean, ADEM staff member regarding runoff from the Arrowhead Landfill, and asked to file a complaint. According to the citizen, Ms. Dean stated that she would file the complaint for him and would follow up. However, it is alleged that he never received a follow-up call from the ADEM representative or any alternative instructions on how to file a complaint. There was also a concern raised that separate complaints made on November 11 and 12, 2015 were given the same number. In light of these claims, we are providing ADEM the opportunity to respond by answering the following questions.

1. In general, please describe ADEM's environmental complaint intake process. Does ADEM have a separate or different intake process for complaints filed in person at ADEM offices, electronically, or by mail?
2. In general, please describe ADEM's environmental complaint disposition process. Are there standard operating procedures for investigating environmental complaints? Please describe.
3. In regard to the specific claim regarding the discussion with Ms. Dean, can ADEM explain what occurred on the date and if there was ever any follow up response provided to the citizen?
4. How does ADEM number its complaints? Is the process different when received on-line or via telephone? Does ADEM group complaints by subject matter, community or any other common factor when numbering complaints? Are complaints ever assigned the same number?
5. ECRCO was specifically provided a reference of complaint number 7k-002wd5e88, which involved complaint submissions made in November 2015 regarding run-off. Can ADEM explain whether the logging of those complaints followed ADEM's process? If not, please provide an explanation.

*Concern raised related whether and how ADEM conducts inspections in response to complaints.*

*First on November 13<sup>th</sup> there was an incident where an ADEM employee conducted an inspection of the Arrowhead landfill in response to a complaint from a community member.* As alleged, one of the complainants had filed a complaint and was under the impression that someone from ADEM was going to come to town and speak with her. Instead, she and another complainant witnessed ADEM staff with a Landfill representative; the ADEM representative appeared to be concluding an inspection and preparing to leave before he spoke with complainants. The ADEM employee only spoke with complainants in the presence of the Landfill employee. This interaction between the parties with the presence of the Landfill representative was perceived by the community members as intimidating. In addition, during the November 13<sup>th</sup> inspection the ADEM inspector and the landfill representative agreed to allow the community members to ride in a vehicle on part of the facility grounds, but when one of the community members asked to visit specific areas of the Landfill, the requests were ignored or dismissed.

*In another instance, a community member filed an odor complaint in March 2016, however, the complaint allegedly was not properly investigated.* Rather, it was resolved by referring to an inspection of the facility conducted six months prior to the date the complaint was filed. We have the following questions.

1. How does ADEM determine whether a complaint warrants an onsite inspection?
2. Under what circumstances does the public participate in an inspection?
3. Does ADEM have a written investigative manual with procedures for staff to follow when conducting a review or inspection? If yes, was this manual and its procedures followed during interaction with community members during the November 13, 2015 investigation?
4. How are past routine inspections utilized to investigate newly received complaints?
5. How does ADEM conclude an environmental complaint? What is the deposition process? If you are unable to immediately close a complaint, how long do you keep complaints open?